

Applicant, 388 Greenwich Street, New York, New York 10013.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Staff Attorney, at (202) 942-0572, or C. David Messman, Branch Chief, at (202) 942-0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end management investment company that was organized as a corporation under the laws of Maryland. On July 29, 1982, applicant registered under the Act as an investment company, and filed a registration statement to register its shares under the Securities Act of 1933. The registration statement was declared effective on October 12, 1982, and the initial public offering commenced shortly thereafter.

2. On April 27, 1994 and May 25, 1994, applicant's board of trustees approved an agreement and plan of reorganization (the "Plan") between applicant and Smith Barney Tax-Free Money Market Fund (the "Acquiring Fund")—a registered open-end management investment company. In addition, the board of trustees made the findings required by rule 17a-8 under the Act.¹

3. On July 29, 1994, applicant mailed proxy materials to its shareholders. On November 11, 1994, applicant's shareholders approved the reorganization at a special meeting of shareholders.

4. Pursuant to the Plan, on November 18, 1994, applicant transferred all of its assets to the Acquiring Fund in exchange for shares of the Acquiring Fund and the assumption by the Acquiring Fund of certain liabilities of applicant. Immediately thereafter, applicant liquidated and distributed *pro rata* to its shareholders the shares it received from the Acquiring Fund in the reorganization. On November 18, 1994, applicant had 3,476,800,171 shares outstanding, having an aggregate net

asset value of \$3,475,385,704 and a per share net asset value of \$1.00.²

5. Expenses incurred in connection with the reorganization, consisting of accounting, printing, administrative, and legal expenses, totaled \$281,807. One half of the expenses were borne by the Fund's sponsor, Smith Barney Inc., and the remainder were divided between applicant and the Acquiring Fund based on relative net assets.

6. There are no securityholders to whom distributions in complete liquidation of their interests have not been made. Applicant has no debts or other liabilities that remain outstanding. Applicant is not a party to any litigation or administrative proceeding.

7. Applicant intends to file the appropriate notice of termination with Maryland authorities.

8. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding up of its affairs.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,
Deputy Secretary.

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BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Little Rock District Advisory Council; Public Meeting

The U.S. Small Business Little Rock District Advisory Council, will hold a public meeting from 9:00 a.m. to 11:30 a.m., on Monday, May 1, 1995, at the U.S. Small Business Administration Little Rock District Office, located at 2120 Riverfront Drive, Suite 100, Little Rock, Arkansas, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Valerie J. Coleman, Business Opportunity Specialist, U.S. Small Business Administration, at the above address, Tele: 501/324-5871, ext. 236.

Dated: April 20, 1995.

Dorothy A. Overal,
Director, Office of Advisory Councils.

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BILLING CODE 8025-01-M

² Dividing the number of outstanding shares by the total net assets does not yield a precise figure of \$1.00 per share. This results from both the effect on the total net assets of realized gains and losses resulting from the sale of portfolio securities prior to their stated maturity and the effect of penny rounding.

SOCIAL SECURITY ADMINISTRATION

[Social Security Ruling SSR 95-1p]

Titles II and XVI: Finding Good Cause for Missing the Deadline To Request Administrative Review Due to Statements in the Notice of Initial or Reconsideration Determination Concerning the Right To Request Review and the Option to File a New Application

AGENCY: Social Security Administration.

ACTION: Notice of Social Security Ruling.

SUMMARY: In accordance with 20 CFR 422.406(b)(1), the Commissioner of Social Security gives notice of Social Security Ruling 95-1p. This Policy Interpretation Ruling clarifies the Social Security Administration's policy on establishing good cause for late filing of a request for administrative review where the claimant received a notice of an initial or reconsideration determination made prior to July 1, 1991, which did not explain that filing a new application instead of a request for review could result in the loss of benefits. Notices of determinations made on or after July 1, 1991, are covered under Section 205(b) of the Social Security Act, as amended by Public Law 101-508.

EFFECTIVE DATE: April 26, 1995.

FOR FURTHER INFORMATION CONTACT: Joanne K. Castello, Division of Regulations and Rulings, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965-1711.

SUPPLEMENTARY INFORMATION: Although we are not required to do so pursuant to 5 U.S.C. 552 (a)(1) and (a)(2), we are publishing this Social Security Ruling in accordance with 20 CFR 422.406(b)(1).

Social Security Rulings make available to the public precedential decisions relating to the Federal old-age, survivors, disability, supplemental security income, and black lung benefits programs. Social Security Rulings may be based on case decisions made at all administrative levels of adjudication, Federal court decisions, Commissioner's decisions, opinions of the Office of the General Counsel, and other policy interpretations of the law and regulations.

Although Social Security Rulings do not have the force and effect of the law or regulations, they are binding on all components of the Social Security Administration, in accordance with 20 CFR 422.406(b)(1), and are to be relied upon as precedents in adjudicating other cases.

¹ Section 17(a) of the Act generally prohibits sales or purchase of securities between registered investment companies and any affiliated person of that company. Rule 17a-8 provides an exemption from section 17(a) for certain reorganizations among registered investment companies that may be affiliated persons, or affiliated persons of an affiliated person, solely by reason of having a common investment adviser, common directors, and/or common officers. Applicant and the Acquiring Fund were "affiliated persons" as defined in the Act solely by reason of having a common investment adviser.

If this Social Security Ruling is later superseded, modified, or rescinded, we will publish a notice in the **Federal Register** to that effect.

(Catalog of Federal Domestic Assistance, Programs 93.802, Social Security—Disability Insurance; 93.803, Social Security—Retirement Insurance; 93.805, Social Security—Survivors Insurance; 93.806, Special Benefits for Disabled Coal Miners; 93.807, Supplemental Security Income.)

Dated: April 18, 1995.

Shirley S. Chater,

Commissioner of Social Security.

Policy Interpretation Ruling

Title II and Title XVI: Finding Good Cause for Missing the Deadline to Request Administrative Review due to Statements in the Notice of Initial or Reconsideration Determination Concerning the Right to Request Administrative Review and the Option to File a New Application

Purpose

To reflect the Social Security Administration's (SSA) policy on establishing good cause for late filing of a request for administrative review as it applies to a claimant who received an initial or reconsideration determination notice dated prior to July 1, 1991, which did not state that filing a new application instead of a request for administrative review could result in the loss of benefits.

Citations (Authority)

Sections 205(b) and 1631(c)(1) of the Social Security Act (the Act); Regulation No. 4, sections 404.903(j), 404.909, 404.911, 404.933, 404.957(c)(3); and Regulation No. 16, sections 416.1403(a)(8), 416.1409, 416.1411, 416.1433, 416.1457(c)(3).

Pertinent History

Our rules in 20 CFR sections 404.909(a), 404.933(b), 416.1409(a), and 416.1433(b) provide that a request for reconsideration and a request for hearing before an administrative law judge (ALJ) must be filed within 60 days after the date of receipt by the claimant of the notice of the determination being appealed. However, the regulations also provide that a claimant can request that the 60-day time period for filing a request for review be extended if the claimant can show good cause for missing the deadline. The request for an extension of time must be in writing and must give the reason why the request for review was not filed timely.

When the claimant fails to timely request reconsideration or an ALJ hearing, the Agency applies the criteria in section 404.911 or section 416.1411,

as appropriate, in determining whether good cause for missing the deadline exists.

Section 404.911(a) states:

In determining whether you have shown that you had good cause for missing a deadline to request review we consider—

- (1) What circumstances kept you from making the request on time;
- (2) Whether our action misled you;
- (3) Whether you did not understand the requirements of the Act resulting from amendments to the Act, other legislation, or court decisions; and
- (4) Whether you had any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) which prevented you from filing a timely request or from understanding or knowing about the need to file a timely request for review.

Section 416.1411(a) sets out essentially the same criteria.

If the Agency determines that good cause for the claimant missing the deadline to request review exists, we process the request for review in accordance with established procedures and the prior administrative action is not final or binding for purposes of applying the rules on either *res judicata* or administrative finality.

Many SSA initial and reconsideration determination notices denying claims for Social Security benefits based on disability issued from September 1, 1977, through February 28, 1990, stated that, if the claimant did not seek administrative review within the 60-day time period, he or she still had the right to file another application at any time. The notices did not further state that filing a new application instead of a request for administrative review could result in the loss of benefits. Some claimants have alleged that they have failed to file a timely request for administrative review as a result of these notices.

In 1984, SSA began making revisions to its notices to explain more clearly the difference between seeking administrative review and filing a new application. Language was added to the initial determination notice stating that a new application is not the same as an appeal of the determination. In 1989 SSA began adding this language to the reconsideration determination notice along with an explanation on both notices to specifically advise the claimant that failing to seek administrative review could result in a loss of benefits. SSA completed implementation of this revision to the notices in February 1990.

SSA has further revised its notices as a result of section 5107 of the Omnibus Budget Reconciliation Act of 1990, Pub. L. 101–508. This section amended the Act to provide that a failure to timely request administrative review of an initial or reconsideration determination made on or after July 1, 1991, may not be used to deny or dismiss a subsequent claim for benefits on the basis of *res judicata* if the claimant demonstrates that he or she failed to request administrative review of the determination acting in good faith reliance upon incorrect, incomplete or misleading information, relating to the consequences of reapplying for benefits in lieu of seeking review of the determination and the information was provided by an officer or employee of SSA or a State agency making disability determinations under section 221 of the Act.

Policy Interpretation

SSA will make a finding of good cause for late filing of a request for administrative review for a title II, title XVI, or concurrent title II/title XVI claim if a claimant received a notice covered by this Ruling and demonstrates that, as a result of the notice, he or she did not timely request such review. The mere receipt of a notice covered by this Ruling will not, by itself, establish good cause.

A. Notices Covered by This Ruling

A notice is covered by this Ruling if it advised the claimant that if he or she did not request administrative review, he or she still had the right to file a new application at any time without further explaining that filing a new application instead of a request for administrative review could result in the loss of benefits. The following are notices covered by this Ruling, if the notice did not state that filing a new application instead of a request for review could result in the loss of benefits.

1. Initial Determination Notice Containing The Following Sentence:

“If you do not request reconsideration of your case within the prescribed time period, you still have the right to file another application at any time.”

2. Reconsideration Determination Notice Containing The Following Sentence:

“If you do not request a hearing of your case within the prescribed time period, you still have the right to file another application at any time.”

A notice described above is not excluded from the Ruling simply because it contained the following additional sentence:

"A new application is not the same as an appeal of this determination."

However, the fact that a notice contained this additional statement is a factor to be considered along with all of the pertinent facts in each case in determining whether good cause for failure to file a timely request for administrative review exists. The presence of this additional statement will make it more difficult for a claimant to show that he or she did not make a timely request for administrative review as a result of the notice. In making the good cause determination when the notice contained this additional statement, the adjudicator may consider whether the claimant should reasonably have been expected to make additional inquiries, whether such inquiries were made, and the results thereof.

B. Proof of Receipt of a Notice Covered by This Ruling

Absent evidence to the contrary, SSA will presume that any notice of an initial or reconsideration determination denying a claim for title II disability benefits is covered by this Ruling if it was dated after August 31, 1977, and prior to March 1, 1990.

In all other situations (e.g., notices in title II nondisability claims, title XVI disability notices and any notice dated prior to September 1, 1977, or after February 28, 1990), the claimant must furnish a copy of the notice covered by this Ruling, or SSA's records must show that a notice covered by this Ruling was issued to the claimant.

C. Failure To Request Administrative Review as a Result of a Notice Covered by this Ruling

Under this Ruling, the Agency will find that a claimant has demonstrated that the failure to file a timely request for administrative review was the result of a notice covered by this Ruling if he or she provides an acceptable explanation, based on all the pertinent facts in a particular case, linking his or her failure to file a timely request for administrative review to the absence in the notice of a statement that filing a new application instead of a request for administrative review could result in the loss of benefits.

In making this determination, factors which an adjudicator may consider include, but are not limited to, the following:

- The claimant's explanation of what he or she thought the notice meant and how that understanding influenced his or her actions;

- The claimant's mental condition;¹
- The claimant's educational level;
- The claimant's ability to speak and understand the English language;
- How much time elapsed before the claimant filed a subsequent claim or sought administrative review of the prior determination; and
- Whether the claimant was represented by a non-attorney. Normally, representation by an attorney at the time of receipt of the notice bars a claimant from relief under this Ruling.

D. Good Cause Found

If the adjudicator determines that good cause exists, he or she will extend the time for requesting administrative review and take the action which would have been appropriate had the claimant filed a timely request for administrative review. A finding of good cause will result either in a new determination or decision that is subject to further administrative or judicial review of the claim, or a dismissal (for a reason other than late filing) of the request for review, as appropriate.

E. Good Cause Not Found

If the adjudicator determines that good cause does not exist, he or she will deny the request to extend the time for filing and dismiss the request. The dismissal will state the adjudicator's rationale for not finding good cause and advise the claimant that he or she can file a new application.

FOR FURTHER INFORMATION CONTACT: This Ruling does not supersede or modify any instructions issued in connection with Acquiescence Ruling (AR) 92-7(9). Claimants in the Ninth Circuit are eligible for relief under the conditions set forth in this Ruling and/or under the AR as applicable. SSA will not apply this Ruling where the administrative determination at issue has been reopened previously or where a decision finding good cause to extend the time for review of that determination has been made previously under SSA policies and procedures or under court order.

EFFECTIVE DATE: This Ruling is effective April 26, 1995.

CROSS-REFERENCES: Program Operations Manual System, Part 2, Chapter 031, Subchapters 01 and 09; Part 4, Chapter 275, Subchapter 16; Acquiescence

¹ In cases in which the claimant's capacity to understand the administrative appeal process is questionable, Social Security Ruling 91-5p and for Fourth Circuit residents, Acquiescence Ruling 90-4(4) should be applied prior to consideration under this Ruling.

Ruling 92-7(9); Social Security Ruling 91-5p.

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DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD13-95-015]

Notice of National Environmental Policy Act Activity

AGENCY: Coast Guard, DOT.

ACTION: Notice; Intent to prepare environmental assessment of Seattle Seafair Unlimited Hydroplane Races and Airshow, Lake Washington, Seattle, WA.

SUMMARY: The Coast Guard is preparing an Environmental Assessment (EA) to consider the environmental effects of granting a marine event permit to Seafair, Inc. for the Seattle Seafair Unlimited Hydroplane Races and Airshow. The Coast Guard is seeking public comment in order to assist in determining the relevant issues, possible environmental effects, and proper scope of this EA. This notice provides information about the event and explains how members of the public can submit their comments to the Coast Guard.

DATES: Persons wishing to submit written comments regarding the scope of the EA, including alternatives and environmental effects to be addressed, should do so on or before May 26, 1995.

ADDRESSES: Comments may be mailed to U.S. Coast Guard Group Seattle, 1519 Alaskan Way So., Seattle, WA 98134. The comments and other materials referenced in this notice will be available for inspection and copying at the above address in Building One, Room 130, Operations Division. Normal office hours are between 7 a.m. and 4 p.m. Monday through Friday, except federal holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: LTJG Ben White, U.S. Coast Guard Group Seattle, (206) 217-6138.

SUPPLEMENTARY INFORMATION:

Proposed Action

The Seattle Seafair Unlimited Hydroplane Race and Airshow is scheduled to be held on August 4, 5, and 6, 1995. Pursuant to the requirements of 33 CFR part 100, the sponsor of the event, Seafair, Inc., has applied for a Marine Event Permit from the U.S. Coast Guard. In accordance